same subject is treated from only a slightly different point of view. On page 593, § 578, under the head of "Fire Limits," we read that, "A provision in a charter to prevent the reconstruction in wood of old buildings within certain limits does not include the power to prevent the repairing with shingles the roof of buildings originally covered with similar materials;" while on page 614, § 598, we find the same case cited, and the same principle stated almost exactly in the same words. From the standpoint of those who desire to read this treatise, these repetitions, which occur quite frequently, would be very annoying; but from the standpoint of one who looks at the work as a book of reference, this method of completely treating each subject, regardless of any slight repetition in another part of the text, is a great advantage, and is, we believe, largely the secret of the success of Mr. BEACH'S works. When we use ordinary text-books as books of reference we are almost always obliged to read the work half through before any particular subdivision of the subject can be completely mastered. To take an example: Those who turn to Mr. BEACH'S work and wish to find out anything about *ultra vires* acts of a public corporation can do so by turning to his chapter on that subject, while those who desire to know the liability of a municipal corporation for the *ultra vires* acts of its agents will find the subject treated in full under the chapter on "Officers and Agents." In other words, it is not necessary to go first to one chapter and then to another to find out all that it is necessary for a lawyer to know on officers and agents of public corporations, or on *ultra vires*. For in each chapter the author seems to have regarded the subject of public corporations from a different point of view, and completely treated the subject from that standpoint, thus creating one of the most complete reference text-books we have ever seen.

W. D. L.

A TREATISE ON THE ADMISSIBILITY OF PAROL EVIDENCE IN RESPECT TO WRITTEN INSTRUMENTS. By IRVING BROWNE. New York: L. K. Strouse & Co., 1893.

This work is, as the author tells us in his preface, the outcome of a lengthy course of reading and study. The author has brought together a large amount of valuable material, and the book would be useful if it were only for the large and complete collection of cases bearing upon the matters discussed.

In his introductory chapter Mr. BROWNE states the "general rule excluding parol evidence," gives "reasons for exceptions to the rule," and among other matters reprints so much of STEPHEN'S Digest of the Law of Evidence as bears upon the parol evidence rule, the provisions of the New York proposed Code of Evidence on the same subject, together with the rules stated by Mr. AUSTIN ABBOTT and Mr. CHARLES CHAMBERLAYNE. In subsequent chapters are discussed "Primary Rules," "Parties," "Strangers," "Consideration," "Formation and Delivery," "Legality of Agreements," "Fraud," "Mistake," "Modification, Discharge, Substitution and Waiver," "Patent Ambiguities," "Incomplete Agreements," "Mercantile Contracts," "Usage," "Negotiable Instruments," "Deeds," "Receipts, Bills of Lading, Releases," "Subscriptions," "Bonds," "Judgments," and "Wills."

These chapter headings show the scope of the work, and indicate also its strength and its weakness. Its strength, as already suggested, consists in the fact that the author has collected valuable material, and classified and arranged it in a reasonably convenient, although somewhat unscientific, form. Its weakness lies in the fact that while it professes to be a treatise which exhausts the topic with which it deals, it at no point reaches the bottom of the subject, nor does the author appear to have grasped those fundamental conceptions which are made clear to the reader of Prof. J. B. THAYER'S writings on this branch of the law of evidence.

It is, perhaps, unfortunate for Mr. BROWNE that Prof. THAYER'S "Select Cases on Evidence," and the same author's paper on the "Parol Evidence Rule," in the *Harvard Law Review*, should have appeared almost simultaneously with the work in hand. Prof. THAYER, by a consistent use of the historical method—the only method by which a scientific investigation of legal principles can be conducted—has succeeded in showing how little of the so-called "parol evidence rule" really belongs to the domain of the law of evidence, and how much of it has to do with substantive law. The following quotation, for example, is typical of the results reached by Prof. THAYER. "The statement, then, that anything is conclusive evidence is not one for which the law of evidence is responsible. It may be a thing very important to be known in handling evidence, but in that respect it is not essentially different from the ordinary rules of substantive law and procedure governing the particular case." Again, in relation to the subject of judgments, Prof. THAYER points out how the rule that judgments cannot be contradicted, added to or varied by parol evidence, is a rule of substantive law, and "appears to be only another mode of expressing the doctrine of the conclusive and binding quality of domestic judgments as regards all who appear upon the record to be parties and to be subject to the jurisdiction."

On the other hand, if one reads Mr. BROWNE'S twentieth chapter—"Judgments"—he will find no such discriminating statements. He will find plenty of such propositions as these: "A judgment record of another State may be impeached by parol proof of fraud or want of jurisdiction, but not otherwise" (§ 121). "A judgment of a domestic court of general jurisdiction may not be collaterally impeached by parties or privies by parol if it shows jurisdiction upon its face" (§ 122). There is not so much as a suggestion that the reason for excluding evidence in this and in similar cases is "that the fact which it tends to prove is of no importance." "Whenever the substantive law does give effect to such a fact, as in cases of fraud, then, of course, it may be proved."

Again, if we compare Mr. BROWNE'S investigation of the subject of "Patent Ambiguities" with Prof. THAYER'S note on "Writings," the comparison will result to Mr. BROWNE'S disadvantage. No better illustration of the superiority of Prof. THAYER'S method of investigation can be cited than that which is exhibited by his exposition of BACON'S conception of the doctrine of latent and patent ambiguities. Although Prof. THAYER'S work was in Mr. BROWNE'S hands (for he quotes it on page 124) his discussion of patent ambiguities, while sound as far as it

goes, consists merely of an array of opinions drawn from various text-writers, preceded by the citations of a few cases and Judge COWEN'S criticism, and followed by the statement of but four cases, one from Wisconsin, one from Texas, one from Arkansas, and one from Iowa. In other words, Mr. BROWNE has failed to do justice to BACON by omitting to "turn on the light of a knowledge of the legal conceptions, which were peculiar to the time, and all their fanciful and pedantic style of expression." One rises from a reading of Prof. THAYER'S exposition of BACON'S conception with an estimate of Lord VERULAM'S celebrated maxim different from that which the reader of Mr. BROWNE'S chapter will be led to form.

If we turn to Mr. BROWNE'S twenty-first chapter, on "Wills," we find that after a preliminary explanation of *ambiguities* the author sets forth WIGRAM'S propositions with respect to interpretation, and follows them up with a summary of Mr. STEWART CHAPLIN'S views on the same subject. Then follow a number of digested cases under the head of "Corroborative Authorities." This is a valuable collection, but it is to be regretted that these authorities were not made the subjects of historical study, and that they have not been printed with due regard to their chronological order, and to the progressive development of the doctrines recognized in them. It would have been well, too, if Mr. BROWNE had given to his readers, with respect to WIGRAM'S treatise, from which he quotes so freely, some such reminder as to its true nature as that which Prof. THAYER puts into the following words: "And, generally, as regards this valuable little book, which is widely supposed to contain a considerable number of rules of evidence the real truth is that, while it lays down some rules of construction, it points out that there is but one single rule of evidence involved in the whole discussion; namely, that which is stated in its Proposition 6, with the exceptions in Proposition 7. Little reflection is needed to see that such things, *mere instances of what is provable*, are but so many illustrations and applications of the fundamental conceptions in any rational system of proof; namely, that which is logically probative, and at the same time practically useful, may be resorted to unless forbidden by some rule or principle of the law."

These comparisons between the work of Prof. THAYER and of Mr. BROWNE are instituted not for the purpose of making captious criticisms, but because of a sincere regret that a writer of Mr. BROWNE'S well-known ability and talents did not, in the investigation of his chosen branch of law, have recourse to that mode of investigating a legal doctrine which alone is sure to result in the discovery of fundamental principles as we find them applied by eminent judges in cases of admitted authority.

As to the "externals" of the work, it may be said that the type is sufficiently clear, that the paper is fair, and that the general arrangement of the work is convenient. The failure to give the references to the official reports of cases in addition to the reference to the publications of the West Publishing Company is not to be commended. Typographical errors are rare. We notice, however, on page 67, Lord Chancellor HARDWICKE'S celebrated decision in 2 Vesey, 155, referred to as Chesterfield *v. Jameson*. G. W. P.